

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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|------------------------------|---|---------------------------------------|
| ESMELYN PLUNKETT, | : | Civil Action No. 12-7337 (SRC) |
| | : | |
| Plaintiff, | : | OPINION & ORDER |
| | : | |
| v. | : | |
| | : | |
| INGLEMOOR REHABILITATION AND | : | |
| CARE CENTER et al., | : | |
| | : | |
| Defendants. | : | |
| | : | |

CHESLER, District Judge

This motion comes before the Court on the motion to dismiss the Amended Complaint, pursuant to Federal Rule of Civil Procedure 12(b)(6), for failure to state a valid claim for relief, by Defendants Inglemoor Rehabilitation and Care Center and Steve Izzo (collectively, “Defendants”). For the reasons stated below, the motion to dismiss will be granted.

Defendants move to dismiss the Amended Complaint on the ground that the claims asserted are barred by the statute of limitations. In her opposition brief, Plaintiff concedes that Defendants are correct. Accordingly, the motion to dismiss will be granted.

Plaintiff argues, however, that she has an unasserted but viable claim for employment discrimination in violation of New Jersey’s Law against Discrimination, and seeks leave to file a Second Amended Complaint. While Defendants oppose Plaintiff’s request, Federal Rule of Civil Procedure 15(a)(2) instructs: “The court should freely give leave when justice so requires.” Defendants have failed to persuade this Court that granting leave to amend is futile or unjust. Plaintiff will be given leave to amend the Amended Complaint for the limited purpose of

asserting a claim for employment discrimination in violation of New Jersey's Law against Discrimination. Of course, the Second Amended Complaint must plead sufficient facts to satisfy the pleading requirements of Iqbal.

For these reasons,

IT IS on this 4th day of September, 2013, hereby

ORDERED that Defendants' motion to dismiss the Amended Complaint (Docket Entry No. 18) is **GRANTED**, and the Amended Complaint is hereby **DISMISSED** without prejudice; and it is further

ORDERED that Plaintiff is granted leave to file a Second Amended Complaint within 30 days of the entry of this Order.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J